

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Clifford Johnson,

Complainant,
vs.

ORDER OF DISMISSAL

Republican Party of Minnesota,

Respondent.

On October 6, 2006, Clifford Johnson filed a Complaint with the Office of Administrative Hearings alleging the Republican Party of Minnesota violated Minn. Stat. § 211B.09 by preparing and disseminating a campaign flyer on behalf of Republican candidate Nate Stang that includes a picture of Mr. Stang with a Minnesota State Trooper.

The Chief Administrative Law Judge assigned the matter to the undersigned Administrative Law Judge on October 6, 2006, under Minn. Stat. § 211B.33. A copy of the Complaint was sent by U.S. Mail to the Respondent the same day.

After reviewing the Complaint and supporting materials, the Administrative Law Judge finds that the Complaint does not set forth a claim against the Republican Party of Minnesota, that if proven, would constitute a violation of Chapter 211A or 211B, and specifically Minn. Stat. § 211B.09.

Based upon the Complaint and the supporting filings and for the reasons set out in the attached Memorandum,

IT IS HEREBY ORDERED:

That the Complaint filed by Clifford Johnson against the Republican Party of Minnesota is **DISMISSED**.

Dated this 10th day of October 2006.

/s/ Kathleen D. Sheehy
KATHLEEN D. SHEEHY
Administrative Law Judge

NOTICE

Under Minn. Stat. § 211B.36, subd. 5 this order is the final decision in this matter and a party aggrieved by this decision may seek judicial review as provided in Minn. Stat. § § 14.63 to 14.69.

MEMORANDUM

Nate Stang is running in the November 7, 2006, general election as the Republican candidate for the Minnesota House of Representatives District 14B. The Republican Party of Minnesota distributed a campaign flyer on behalf of Mr. Stang's candidacy. The flyer has six pictures of Mr. Stang, including one of him standing next to a Minnesota State trooper dressed in full uniform. The Complaint alleges that by picturing candidate Stang with the State Trooper, the Republican Party violated Minn. Stat. § 211B.09.

Minn. Stat. § 211B.09 provides as follows:

An employee or official of the state or of a political subdivision may not use official authority or influence to compel a person to apply for membership in or become a member of a political organization, to pay or promise to pay a political contribution, or to take part in political activity. A political subdivision may not impose or enforce additional limitations on the political activities of its employees.

Section 211B.09 prohibits state employees from using their official authority or influence to "compel a person to ... take part in political activity." The Complaint, however, is not lodged against the State Trooper; it names the Republican Party of Minnesota. Because Section 211B.09 is directed against prohibited *public employee* activities, the Complaint must be dismissed. The Republican Party of Minnesota is not an employee or official of the state and thus cannot violate Minn. Stat. § 211B.09. However, even if the Complaint were lodged against the State Trooper, the photograph alone would be insufficient to support a prima facie violation of Minn. Stat. § 211B.09 absent some evidence that the State Trooper compelled persons to apply for or become members of a political organization, to pay or promise to pay a political contribution, or to take part in political activity.

The Complaint is dismissed because it fails to allege a prima facie violation of Minn. Stat. § 211B.09 by the Republican Party of Minnesota.

K.D.S.